

SELECTMEN'S PUBLIC INFORMATION BULLETIN IMPROVEMENTS TO ROADWAYS/BETTERMENTS

Many citizens contact the Town of Westford Highway Department or Selectmen requesting repairs or improvements to their street only to learn it is unaccepted or private and that repairs cannot reasonably be undertaken under penalty of Massachusetts State Law. The purpose of this policy is to provide citizens with a written summary of the steps necessary to expend Town funds on repairs for unaccepted or private roads. For further information please contact the Town Engineer.

This document addresses three types of unaccepted roads or roads which Town Meeting has not authorized the expenditure of public funds to repair and maintain; roads constructed before 1955, roads constructed after 1955 under the Subdivision Control Act abandoned by developers and private roads. These three road categories are all considered "unaccepted" by the Town whereas Massachusetts State Law defines all unaccepted roads as private. All roads constructed before 1994 and reasonably maintained are plowed and sanded as authorized by a vote of Town Meeting. Roads constructed after 1994, must be accepted by a vote of Town Meeting before snow removal services will be provided.

From time to time, the Planning Board approves the construction of a "private" way. Private ways typically service a particular interest such as a large commercial development or shared common driveway as in the case of condominiums or a limited number of single-family homes. Developers of private roads are given special considerations in exchange for designation as a "private way." A typical consideration would be that the road does not meet the minimum road width of 22 feet. Private ways are to be maintained in perpetuity by the property owners and not eligible for acceptance by Town Meeting and subsequent maintenance by the Highway Department.

1. **If Your Road is a "Private Way":** The Highway Department cannot legally provide repair or improvement to the roadway. The responsibility belongs to the abutting property owners and should be recorded in the property deed. See the property deed for details. (Deeds are on file at the Registry of Deeds in Lowell). Private Ways may not go through the street acceptance process because the expense of bringing this type of road to a minimum acceptable standard exceeds what would be allowed by the Department of Revenue's memorandum on the assessment of betterments. The Town Engineer maintains a list of private ways so designated by the Planning Board. Contact the Highway Superintendent for repair advice and type of contractors who perform routine maintenance.

2. **If Your Road is "Unaccepted":** There are many roads in Westford that are not accepted public ways; which means that the voters of the Town have not authorized the expenditure of public funds for the repair and maintenance of the roadways. The property owners alongside unaccepted roads (the abutters) usually own to the centerline of the roadways that touch their parcels of land. See the property deed for details. (Deeds are on file at the Registry of Deeds in Lowell). It has been the practice in Westford for decades to not use public resources on unaccepted roadways except where specifically authorized by state law. Abutters to unaccepted streets have three options for having their roads improved:

A. In cases of roads constructed before 1955, and post-1955 abandoned subdivision roads, abutters own a portion of the roadway; individuals and groups of abutters may hire private contractors to fill in holes, repair drainage structures and otherwise improve the roadway. It is recommended to check with the Highway Superintendent first for advice and suggestions. The Highway Superintendent maintains a list of contractors who perform routine road maintenance.

B. Abutters of unaccepted roadways have the right to submit an article for inclusion on a Town Meeting Warrant seeking Town acceptance of the road and subsequent maintenance or improvement of the road. Since it has been the practice of the Town to improve roads under the Town's Betterment Policy and developers are responsible to prepare paved roads prior to their acceptance by the Town, it is unlikely Town Meeting would support such an article. Contact the Board of Selectmen's office for advice on preparing a warrant article for Town Meeting and following the requirements of Massachusetts General Law for street acceptance.

C. 1. Abutters of unaccepted roads constructed before 1955, which have been open to the public for a period of two years, may submit a written petition to the Board of Selectmen that the street be improved under the Town's Temporary Repairs to Private Ways Bylaw as a matter of public necessity. Upon receipt of a petition, the Selectmen will direct the Town Engineer to determine public necessity. If repairs are needed and voted affirmatively by a majority of the Board, temporary repairs may be undertaken and abutters will be assessed betterment charges. Because the Town is funding repairs up-front, with the cost being paid back by abutters over a period of years, the expenditure must be approved by Town Meeting. Repairs cannot begin until Town Meeting authorizes the funding. Refer to the Town's Temporary Repairs to Private Ways Bylaw for additional details.

C. 2. Abutters of unaccepted roads constructed after 1955 under the Subdivision Control Act must first appeal to the developer to complete road repairs and improvements and bring it forward to Town Meeting for acceptance. Subdivision road acceptance is the responsibility of the developer. It is understood, the reasons for each unaccepted subdivision road may be unique and one policy may not cover each situation. If the Planning Board determines the developer has abandoned the road, any remaining bond money will be seized and a plan developed by the Town Engineer to apply the funds toward completion. When bond money is posted for a subdivision, it is the desire of the Board of Selectmen and Town in general, to bring all roads of a subdivision forward for acceptance simultaneously so that bond money is equitably used. If bond money is no longer available or insufficient to complete necessary road repairs, the cost of street completion may be required of abutters through the Town Betterment Policy.

Abutters to an unaccepted subdivision road may submit a written request to the Town Engineer for street acceptance and improvement under the Town's Betterment Policy. Roads are to be brought to the standard at the time of Planning Board approval of the definitive subdivision plan.

3. **If You Own Property on a Town Way:** Five accepted Town Ways in Westford are not paved. The unpaved Town Ways are Vose Road, Old Road, Wright Lane, Wing Road, and Flushing Pond Road. To have a Town Way paved, abutters may offer to finance the engineering, construction and material costs, proceeding under the Town's Betterment Policy, or submit a Town Meeting Warrant Article asking for Town funding for the project, (please refer to the Selectmen's Office for correct timing for submitting articles). The betterment of accepted Town Ways follows the same process as unaccepted ways.

TOWN OF WESTFORD IMPROVEMENT TO ROADWAYS BETTERMENT POLICY

Citizens may submit a written request to the Board of Selectmen for street acceptance and/or improvement under the Town's Betterment Policy. Massachusetts General Law Chapter 80, sections 1 to 17, covers Town administration of betterments. The Massachusetts Department of Revenue, Division of Local Services, Memorandum on Betterments and Assessments, Assessment and Collection Procedures, (April 2001), offers further guidance.

Generally, a betterment or special assessment is a special property tax that is permitted where real property receives a special benefit or advantage from the construction of a public improvement. Assessment of the project costs must be reasonable and not substantially in excess of the benefit received. Public improvements, which may be subject to betterments include, but are not limited to, street layouts, temporary repair to a private way, water, sewer and sidewalks. A betterment or special assessment is a lien on the property benefited.

- To begin the betterment process, a minimum number of abutters must petition the Board of Selectmen, the Assessing Authority:

Temporary Repairs to Private Roads	75%
Subdivision Road Street Acceptance	51%
Paving of Town Ways	75%

- Betterment costs, including but not limited to engineering, materials, labor, plan preparation, bonding and legal expenses, will be included in the final assessment.
- Betterments will be assessed on a per lot basis or on the proportion of the lot on the way to be improved or other proportional method as may be required by vote of Town Meeting.
- Abutters will assume 100% of the cost of the betterment for street layout or improvement, temporary repair to private ways or paving of Town Ways.
- The betterment term will be mutually agreed upon between the Assessing Authority and petitioners, usually 5 to 20 years.